

December 17, 2002

The Honorable Board of Supervisors  
County of Los Angeles  
383 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, CA 90012

Dear Supervisors:

**TECHNICAL CORRECTIONS TO DEFERRED INCOME PLANS  
(ALL AFFECTED) (3 VOTES)**

**IT IS RECOMMENDED THAT YOUR BOARD:**

Approve the accompanying ordinance amending the Pension Savings Plan and Savings Plan.

**PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION**

The attached ordinance amends the Pensions Savings Plan to the extent required by the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA). It also amends the Savings Plan to make changes required to maintain the tax qualification of the plan.

**Implementation of Strategic Plan Goals**

The recommended amendments will contribute to the achievement of County Strategic Plan Goal 4, Fiscal Responsibility, by protecting the pre-tax status of the plans.

**FISCAL IMPACT/FINANCING**

None.

**FACTS AND PROVISIONS/LEGAL REQUIREMENTS**

EGTRRA requires Plan Sponsors both to administer and to amend deferred income plans such as the Pension Savings Plan during the 2002 plan year to permit transfer of plan assets to the plan of another employer or to an IRA after an employee separates from service. The Pension Savings Plan has been administered in accordance with this requirement since January 1, 2002 but has not yet been amended as required.

The Savings Plan is being amended to make technical changes required to maintain the plan as a qualified plan. As permitted by EGTRRA, the Savings Plan change also would permit a retired employee to suspend a benefit distribution once it has begun.

The attached ordinance has been approved as to form by the County Counsel.

**IMPACT ON CURRENT SERVICES**

None.

Respectfully submitted,

DAVID E. JANSSEN  
Chief Administrative Officer

DEJ:WGL  
FF:lg

Attachments (1)

c: County Counsel

## **ANALYSIS**

This ordinance amends Title 5 – Personnel of the Los Angeles County Code by making changes to the Pension Savings Plan required by the Economic Growth and Tax Relief Reconciliation Act of 2001 and correcting errors and omissions in the Savings Plan.

LLYOD W. PELLMAN  
County Counsel

By \_\_\_\_\_  
RAYMOND G. FORTNER  
Chief Deputy County Counsel

## ORDINANCE NO.

An ordinance amending Title 5 - Personnel of the Los Angeles County Code, making certain changes required by Federal Tax Law and correcting certain errors and omissions.

The Board of Supervisors of the County of Los Angeles ordains as follows:

**SECTION 1.** Section 5.19.020 is hereby amended to read as follows:

### **5.19.020 Definitions.**

The following terms when used herein with initial capital letters, unless the context clearly indicates otherwise, shall have the following respective meanings:

A. "Administrative Committee" means a committee consisting of: the Auditor-Controller, County Counsel, Treasurer and Tax Collector, and Chief Administrative Officer of the County, one member appointed by Local 660, Los Angeles County Employees' Association, SEIU, AFL-CIO (Local 660), and one member appointed by the Coalition of County Unions, AFL-CIO (Coalition). The Administrative Committee shall be the administrator of the Plan, and may delegate all or part of its powers, duties, and authority in such capacity (without ceasing to be the administrator of the Plan) as hereinafter provided. Administrative Committee members may designate named alternates that may serve in their absence; provided, however, not more than one such named alternate shall be designated for Local 660 and the Coalition, respectively.

B. "Agent" means any agent duly authorized to perform specified duties by its respective principal.

C. "Basic Deferred Compensation Contribution" means an amount equal to 4.5 percent of a Participant's Compensation that is deducted from such Participant's wages by the County and credited to such Participant's Investment Account as a term and condition of the Participant's employment with the County.

D. "Beneficiary" means such person or persons as a Participant may designate to receive his interest under the Plan after his death. The designation may be made, and may be revoked or changed, only by a written instrument (in form acceptable to the Administrative Committee) signed by the Participant and filed with the Administrative Committee before his death. In the absence of a designation and at any other time when there is no existing Beneficiary designated by the Participant, his Beneficiary shall be his spouse, if living 30 days after the date of this death, or, if not, his children (by blood or adoption) equally (with children of a deceased child to share equally the share of such deceased child). If a Beneficiary cannot be determined pursuant to the preceding sentence, the Beneficiary shall be the Participant's estate.

E. "Board" means the Los Angeles County Board of Supervisors.

F. "CAO" means the Chief Administrative Officer of the County appointed by the Board pursuant to the Los Angeles County Code.

G. "Code" means the Internal Revenue Code of 1986, as amended.

H. "Compensation" means the amount of an Employee's wages as defined for purposes of Section 3121 of the Code; provided that the amount of an Employee's wages taken into account under the Plan for any Plan Year (1) shall include any Deferred Compensation Contributions made on behalf of the Employee for such

Plan Year, but (2) shall not exceed the contribution and benefit base determined under Section 230 of the Social Security Act for such Plan Year.

I. "County" means the County of Los Angeles and (1) any governmental entity of which the Board is the governing body, and (2) the Los Angeles County Municipal Courts and the Los Angeles County Superior Court to the extent that the operation of this Plan in said courts is otherwise authorized by State law or rules of court.

J. "Deferred Compensation Contribution" means a Participant's Basic Deferred Compensation Contribution and Supplemental Deferred Compensation Contribution, if any.

K. "Disability" means the complete and continuous inability and incapacity of the Participant to perform the duties of his or her position with the County.

L. "Discretionary Trustee" means a Trustee who, under the terms of the Trust Agreement, has the discretionary authority to invest the Plan assets in one or more Investment Funds.

M. "Effective Date" means January 1, 1992. The Restatement Effective Date is January 1, 1999- , unless a provision expressly states otherwise. Certain provisions of this Plan as amended are intended as good faith compliance with the requirements of The Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA") and are to be construed in accordance with EGTRRA and guidance issued thereunder.

N. "Eligible Earnings" means any compensation for service performed for the County which is currently ~~includable~~includible in gross income under the Code.

O. "Eligible Rollover Distribution" means any distribution made on or after January 1, 2002 of all or part of the balance to the credit of the Participant in an Eligible Retirement Plan other than: (i) any distribution which is one of a series of substantially equal periodic payments made not less frequently than annually for the life (or life expectancy) of a Participant or beneficiary or the joint lives (or joint life expectancies) of such individual and his designated beneficiary, or for a specified period of 10 years or more; (ii) any distribution to the extent such distribution is required by Code section 401(a)(9); (iii) any distribution which is made upon hardship or unforeseeable emergency of the employee; and (iv) any distribution which is (a) a return of elective deferrals described in Section 1.415-6(b)(6)(iv) of the Treasury Regulations which is returned due to the limitations under Code section 415, (b) a corrective distribution of excess contributions described in Section 1.401(k)-1(f)(4) of the Treasury Regulations, excess deferrals described in Section 1.402(g)-1(e)(3) of the Treasury Regulations or excess aggregate contributions described in Section 1.401(m)-1(e)(3) of the Treasury Regulations, together with the income allocable thereto, (c) a loan treated as a distribution under Code section 72(p) and not excepted from such treatment under Code section 72(p)(2), (d) a deemed distribution of a loan in default, (e) a dividend on employer securities described in Code section 404(k), (f) the P.S. 58 cost of life insurance coverage, and (g) any other similar item designated by the Commissioner of Internal Revenue.

P. "Eligible Retirement Plan" means: (i) an individual retirement account under Code section 408(a); (ii) a "conduit" individual retirement account described in Code section 408(d)(3)(A)(ii); (iii) an individual retirement annuity under Code section 408(b); (iv) an annuity plan described in Code section 403(a); (v) a plan which is qualified under Code section 401(a); (vi) a tax-sheltered annuity contract under Code section 403(b); and (vii) an eligible deferred compensation plan under Code section 457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state.

QQ. "Employee" means an individual who has been determined by the County (regardless of any determination made by any other person or entity) to be a common law employee of the County for federal income and/or employment tax purposes. If it is determined that an individual was erroneously categorized as not being an Employee, he or she shall be treated as an Employee under the Plan only prospectively from the date of such determination.

PR. "Entry Date" means the later of January 1, 1992 or the date on which an Employee satisfies the participation requirements of Section 5.19.030.

QS. "Investment Account" means an account established by the Trustee for a Participant pursuant to Section 5.19.070, comprised of the Deferred Compensation Contributions and Matching Contributions made by the County on behalf of such Participant, and any gains or losses which result from investment of the account.

~~R~~T. "Investment Fund" means any investment vehicle in which the Plan assets are invested. Any such Investment Fund shall be consistent with any limitations on forms of investment imposed under applicable State law.

~~S~~U. "Investment Manager" means a person appointed by the Administrative Committee or by the Trustee if, under the Trust Agreement, the Trustee is a Discretionary Trustee, who, with respect to an Investment Fund, has the discretion to determine which assets in such Fund shall be sold (or exchanged) and what investments shall be acquired for such Fund. Unless the Investment Manager is the County Treasurer, such appointed person must be either registered as an investment adviser under the Investment Advisers Act of 1940, a bank as defined thereunder or an insurance company qualified to manage, acquire or dispose of Plan assets under the laws of more than one state. Any Investment Manager shall accept such appointment in writing and shall constitute a fiduciary with respect to the investment of Plan assets held in the particular Investment Fund for which the appointment applies, unless such person would not be treated as investing assets of the Plan if the Plan was covered by the Employee Retirement Income Security Act of 1974, as amended.

~~T~~V. "LACERA" means the Los Angeles County Employees Retirement Association.

~~U~~W. "Matching Contribution" means an amount equal to three percent of a Participant's Compensation that is credited by the County to such Participant's Investment Account.

~~V~~X. "Participant" means an Employee (or former Employee) who has satisfied the eligibility requirements of Section 5.19.030 and who has not yet received a distribution of his entire Investment Account.

~~W~~Y. "Plan" means the County of Los Angeles Pension Savings Plan, the terms and provisions of which are herein set forth, as the same may be amended, supplemented or restated from time to time.

~~X~~Z. "Plan Administrator" means the Administrative Committee.

~~Y~~AA. "Plan Year" means the 12-month period beginning on January 1st and ending on the following December 31st, commencing in January, 1992.

~~Z~~BB. "Retirement" means a Participant's Separation from Service on or after the attainment of age 50.

~~A~~ACC. "Separation from Service" or "Separated from Service" means any termination of a Participant's relationship with the County as an Employee, including termination due to death or Retirement.

~~B~~DD. "TPA" means a third-party administrator who has entered into a contract with the County to provide record-keeping services, employee communication services, claims administration services or other similar services. Alternatively, the County may act as the "TPA" to provide these services.

~~C~~EE. "Supplemental Deferred Compensation Contribution" means any amount of Compensation deferred by a Participant pursuant to Section 5.19.040 B.

~~D~~FF. "Trust Agreement" means the agreement(s) executed by the County and a Trustee which establishes either a trust fund or custodial account to

provide for the investment, reinvestment, administration and distribution of contributions made under the Plan and the earnings thereon, as amended from time to time.

~~EE~~GG. "Trust Fund" means the assets of the Plan held by the Trustee pursuant to the Trust Agreement.

~~FF~~HH. "Trustee" means the one or more persons or entities who have entered into a Trust Agreement as a trustee or custodian, and any duly appointed successor. For these purposes, the custodian of any custodial account created for the purposes of holding Plan assets must be a bank, as described in Code Section 408(n), or a person who meets the nonbank trustee requirements of paragraphs (2) -- (6) of Section 1.408-2(e) of the Income Tax Regulations relating to the use of nonbank trustees. To the extent consistent with applicable law, the County Treasurer may serve as the Trustee. The Trustee may be a Discretionary Trustee.

~~GG~~II. "Valuation Date" means the date with respect to which the value of the assets comprising the Trust Fund or any portion thereof is determined. Unless otherwise determined by the Administrative Committee, a Valuation Date occurs on the last business day of each month.

Unless the context otherwise indicates, the masculine wherever used shall include the feminine and neuter, and the singular shall include the plural.

**SECTION 2.** Section 5.19.140 is hereby amended to read as follows:

**5.19.140 ~~Transfers to or from comparable plans.~~Rollovers and Plan-to- Plan Transfers.**

A. Rollovers From the Plan

1. Effective for any distribution made on or after January 1, 2002, a Participant who is entitled to receive an Eligible Rollover Distribution from the Plan, may direct the Administrative Committee to have the distribution transferred in a lump sum directly to the trustee of an Eligible Retirement Plan, as defined in 5.19.020P, that permits the acceptance of rollover contributions.

2. In order for a transfer to be made with respect to a Participant under this subsection A, (a) the Participant must designate in writing the Eligible Retirement Plan to receive the transferred amounts; (b) the Participant must timely provide the Administrative Committee with adequate information to enable the Administrative Committee to determine that the transferee plan is an Eligible Retirement Plan; (c) the entire amount to be transferred must be an Eligible Rollover Distribution; (d) the Participant must have received proper notice in accordance with Code section 402(f); and (e) in the case of a distribution of property other than money, the amount so transferred consists of the property distributed.

3. A Participant's surviving spouse who becomes eligible to receive a distribution on the Participant's death under Section 5.19.100 of the Plan shall be treated as the Participant for purposes of this subsection A.

B. Transfers to or from comparable plans.

If a Participant incurs a Separation from Service in order to accept employment with another eligible employer (within the meaning of Section 457(e)(1) of the Code)

which sponsors an "eligible deferred compensation plan" within the meaning of Section 457(b) of the Code, no distribution of amounts credited to such Participant's Investment Account shall be made under this Plan, and any amounts so credited shall be transferred to the "eligible deferred compensation plan" of the new employer of such Participant, provided that such plan specifically authorizes acceptance of amounts transferred in this manner. In the event that a Participant has entered County service after having been a participant in another such "eligible deferred compensation plan," the County will accept a transfer of funds from such other plan for credit to such Participant's Investment Account. The County may require such documentation from a predecessor or successor plan as it deems necessary to assure that such plan is sponsored by another "eligible employer" and is qualified under Section 457 of the Code.

**SECTION 3.** Section 5.19.230 is hereby added to read as follows:

**5.19.230 EGTRRA Sunset Provision.**

The changes made to this Plan in accordance with the terms of EGTRRA shall expire and no longer be effective upon the sunset of the applicable provisions of EGTRRA. Upon the sunset of the applicable EGTRRA provisions, the sections of the Plan intended to comply with EGTRRA and such other sections that the Administrative Committee determines are no longer applicable due to the sunset of relevant EGTRRA provisions will no longer be effective and notwithstanding anything in the Plan to the contrary, the Plan shall be construed in accordance with the terms of the Plan in effect as of December 31, 2001, except to the extent such terms are inconsistent with the

applicable provisions of the Code and guidance issued thereunder, in which case, the Plan will be construed consistent with such applicable law.

**SECTION 4.** Section 5.26.020 is hereby amended to read as follows:

**5.26.020 Definitions.**

The following terms when used herein with initial capital letters, unless the context clearly indicates otherwise, shall have the following respective meanings:

1. "Account" means a Participant's Tax Deferred Contributions Account, Matching Contributions Account, After-Tax Contributions Account and Rollover Contribution Account as specified in Section 5.26.190.
2. "Administrative Committee" means the Auditor-Controller, County Counsel, Treasurer and Tax Collector, and Chief Administrative Officer of the County, or their designated representatives.
3. "Administrator" or "Plan Administrator." The Administrator of the Plan, as defined in Code Section 414(g), shall be the Administrative Committee which may delegate all or any part of its powers, duties and authorities in such capacity (without ceasing to be the Administrator of the Plan) as hereinafter provided.
4. "After-Tax Contributions" means contributions made by the County pursuant to a salary deduction agreement as specified in Section 5.26.065.
5. "After-Tax Contribution Account" means an account to which the After-Tax Contributions made for each Participant, and any earnings, investment gains or losses and applicable Plan expenses allocable thereto, are credited.

6. "Alternate Payee" means any spouse, former spouse, child or other dependent of a participant who is recognized by a domestic relations order as having a right to receive all, or a portion of, the benefits payable under a plan with respect to such Participant.

7. "Beneficiary" means such person or persons as a Participant may designate to receive his interest under the Plan after his death. The designation may be made, and may be revoked or changed, only by a written instrument (in form acceptable to the Administrative Committee) signed by the Participant and filed with the Administrative Committee before his death. In the absence of a designation and at any other time when there is no existing Beneficiary designated by the Participant, his Beneficiary shall be his spouse, if living 30 days after the date of his death, or, if not, his children (by blood or adoption) equally (with children of a deceased child to share equally the share of such deceased child). If a Beneficiary cannot be determined pursuant to the preceding sentence, the Beneficiary shall be the Participant's estate.

8. "Catch-Up Contributions" means contributions made by the County on or after January 1, 2002, as specified in Section 5.26.060B.

9. "Code" means the Internal Revenue Code of 1986, as amended.

10. a. "Compensation" means base rate, as established in Title 6 of the Los Angeles County Code, as amended, plus:

(1) Any monthly bonus established as a designated number of schedules and/or levels in the Standardized Salary Schedule contained in such Title 6 or established as a percentage of base rate pursuant to Parts 2 or 3 of

Chapter 6.08 of such Title 6;

(2) The monthly amounts provided by Sections 5.12.200, 5.27.240A, 5.28.240A, 5.40.460 and 5.40.465;

(3) Any lump-sum payment made upon termination pursuant to Section 5.20.070 or 6.18.070 of the Los Angeles County Code.

b. Compensation shall not include any of the following:

(1) Overtime compensation;

(2) Any lump-sum payoff or reimbursement for unused accumulated overtime, vacation, holiday time, or sick leave benefits;

(3) Compensation pursuant to Section 6.16.010 of the Los Angeles County Code;

(4) Any hourly bonus;

(5) Any monthly bonus established as a flat dollar amount or as a percentage of base rate except that compensation shall include any monthly bonus paid as a percentage of base rate for employees compensated pursuant to Parts 2 or 3 of Chapter 6.08 entitled Management Appraisal and Performance Plan of the Los Angeles County Code.

11. "Compensation Deferral Agreement" means an agreement pursuant to which an Employee agrees to reduce, or to forego an increase in, his Eligible Earnings and the County agrees to contribute to the Plan the amount of the reduction or the amount foregone as a Tax Deferred Contribution.

12. "County" means the County of Los Angeles and (a) any governmental entity of which the Los Angeles County Board of Supervisors is the governing body, and (b) any Trial Court Entity to the extent participation in the Plan by such Entity is authorized by state law or rules of court and provided such Entity has not elected not to participate in the Plan.

13. "County Contributions" means Tax Deferred Contributions, if any, as specified in Section 5.26.060, After-Tax Contributions, if any, as specified in Section 5.26.065 and Matching Contributions as specified in Section 5.26.110.

14. "Disability" means the complete and continuous inability and incapacity of the Participant to perform the duties of his or her position with the County.

15. "Eligible Earnings" means any ~~Compensation~~compensation paid to an Employee for service performed for the County which is currently ~~includable~~includible in gross income under the Code, or which would be so ~~includable~~includible had the Employee not signed a Compensation Deferral Agreement. On or after March 1, 2003, Eligible Earnings shall have the same meaning as "415 Compensation."

16. "Eligible Employee" means a full-time permanent Employee who is not a Leased Employee, is not in an Excluded Bargaining Unit and who is designated by the Board of Supervisors of the County as eligible to participate in the Plan. For purposes hereof, "full-time permanent" means any employee appointed to an "A," "L" or "N" item pursuant to Title 6 of the Los Angeles County Code. Any employee who would otherwise cease to be an Eligible Employee because of a change in employment

classification and/or entry into an Excluded Bargaining Unit shall remain an Eligible Employee until the last day of the month following the month in which such change or entry occurs or such later date as the Administrative Committee may provide.

17. "Eligible Rollover Distribution" means any distribution of all or part of the balance to the credit of the Participant in a qualified trust described in Code Section 401(a) (including the Plan where applicable) or in a "conduit" individual retirement account described in Code Section 408(d)(3)(A)(ii), other than (1) any distribution which is one of a series of substantially equal periodic payments made not less frequently than annually for the life (or life expectancy) of the Participant or beneficiary or the joint lives (or joint life expectancies) of such individual and his designated beneficiary, or for a specified period of 10 years or more; (2) any distribution to the extent such distribution is required by Code Section 401(a)(9); and (3) any distribution which is (a) a return of elective deferrals described in Section 1.415-6(b)(6)(iv) of the Treasury Regulations which is returned due to the limitations under Code Section 415, (b) a corrective distribution of excess contributions described in Section 1.401(k)-1(f)(4) of the Treasury Regulations, excess deferrals described in Section 1.402(g)-1(e)(3) of the Treasury Regulations or excess aggregate contributions described in Section 1.401(m)-1(e)(3) of the Treasury Regulations, together with the income allocable thereto, (c) a loan treated as a distribution under Code Section 72(p) and not excepted from such treatment under Code Section 72(p)(2), (d) a deemed distribution of a loan in default, (e) a dividend on employer securities described in Code Section 404(k), (f) the P.S. 58 cost of life insurance coverage, and (g) any other similar

item designated by the Commissioner of Internal Revenue. For distributions made on or after January 1, 2000, an Eligible Rollover Distribution also does not include any distribution or withdrawal of Tax Deferred Contributions due to Hardship as provided in Section 5.26.300 and under Code Section 401(k). For distributions made on or after January 1, 2002, an Eligible Rollover Distribution also does not include any distribution or withdrawal of Matching Contributions or Tax Deferred Contributions due to Hardship as provided in Section 5.26.300.

18. "Employee" means any person who: (a) has been determined by the County (regardless of any determination made by any other person or entity) to be an employee of the County within the meaning of Code Section 3401(c) for federal income and/or employment tax purposes; or (b) is a Leased Employee as defined in subsection 26 of this section and as provided in Section 5.26.055. If it is determined that an individual was erroneously categorized as not being an Employee, he or she shall be treated as an Employee under the Plan only prospectively from the date of such determination.

19. "Entry Date" means September 1, 1984, and the first day of every succeeding month unless otherwise provided by the Administrative Committee.

20. "Excluded Bargaining Unit" means an employee representation unit, unless the representative of such unit and the County agree that the Employees in such unit shall be covered hereunder.

21. "415 Compensation" means wages, within the meaning of Section 3401(a) of the Code (for purposes of income tax withholding) but determined without

regard to any rules that limit the remuneration included in wages based on the nature or location of the employment or the services performed, paid to an Employee by the County. Effective for years beginning on and after January 1, 1998, 415 Compensation also includes any County contribution under a cash or deferred arrangement (including Tax Deferred Contributions) for the year, any County contributions to purchase an annuity contract under Code Section 403(b) under a salary reduction agreement, any other elective deferral (as defined in Code Section 402(g)(3)) and any amount which is contributed to a plan sponsored by the County at the election of the Employee and which is not includible in gross income under Code Section 125 or Code Section 457. For Limitation Years (as defined in Section 5.26.160) beginning on and after January 1, 2001, ~~for the purposes of applying the limitations described in Section 5.26.160,~~ 415 Compensation paid or made available during such Limitation Years shall include elective amounts that are not includible in the gross income of the Employee by reason of Code Section 132(f)(4). On or after January 1, 2003, 415 Compensation also includes any amount that is not available in cash to an Employee under the Choices, Options, Flexible Benefit Plans or Mega-Flex Plans (or a successor plan) because the Employee is unable to certify that the Employee has other health coverage. For these purposes, the "County" includes any entity the employees of which, together with employees of the County, are required to be treated as if they were employed by a single employer under Code Section 414(b), (c), (m) or (o) (taking into account any adjustment made pursuant to Code Section 415(h)), and any entity whose employees are treated as employees of the County under Code Section 414(n).

22. "Hardship" means hardship as determined in a uniform and nondiscriminatory manner by the Administrative Committee, taking into account wherever applicable the definition of such term by the Treasury Department in its regulations or other applicable guidance issued under Code Section 401(k), all on the basis of information supplied to the Administrative Committee by the Participant.

23. "Horizons Plan" means the County of Los Angeles Deferred Compensation and Thrift Plan.

24. "Investment Funds" means the investment fund or funds selected from time to time by the Administrative Committee, including the Participant Loan Fund.

25. "Investment Manager" means the person(s) appointed by the Plan Administrator who, under such terms and conditions as the Plan Administrator may decide with respect to an Investment Fund, has the discretion to determine which assets in such Fund shall be sold (or exchanged) and what investments shall be acquired for such Fund. In the alternative, an organization which is employed by the County to provide administrative and investment services (by agreement with one or more investment providers) may be designated an Investment Manager.

26. "Leased Employee" means any person described in Code Section 414(n)(2) for the purposes of the plan qualification requirements listed in Code Section 414(n)(3).

27. "Matching Contributions" means contributions made by the County as specified in Section 5.26.110.

28. "Matching Contribution Account" means an account to which the Matching Contributions allocated to each Participant, and any earnings, investment gains or losses and applicable Plan expenses allocable thereto, are credited.

29. "Participant" means an Eligible Employee or a former Eligible Employee who has become and continues to be a Participant of the Plan in accordance with the provisions of Part 2 of this chapter.

30. "Participant Loan Fund" means the Investment Fund provided for in Section 5.26.310.

31. "Plan" means the County of Los Angeles Savings Plan, the terms and provisions of which are herein set forth, as the same may be amended, supplemented or restated from time to time.

32. "Plan Year" means a calendar year.

33. "QDRO" means a "qualified domestic relations order," which is a domestic relations order that the Administrative Committee has determined satisfies the requirements of a qualified domestic relations order as defined in Code Section 414(p)(1) and is consistent with the terms of this Plan.

34. "Qualified Plan" means an employee benefit plan that is qualified under Section 401 (a) of the Code.

35. "Rollover Contributions" means contributions received by the Plan pursuant to Section 5.26.610A.

36. "Rollover Contributions Account" means an account to which the Rollover Contributions received on behalf of each Participant, and any earnings,

investment gains or losses and applicable Plan expenses allocable thereto, are credited.

37. "Salary Deduction Agreement" means an agreement pursuant to which an Employee agrees to have an amount deducted from his Eligible Earnings, on an after-tax basis, and the County agrees to contribute to the Plan the amount deducted as an After-Tax Contribution.

38. "Tax Deferred Contributions" means contributions made by the County pursuant to a Compensation Deferral Agreement as specified in Section 5.26.060. Effective on or after January 1, 2002, such term shall also include any Catch-Up Contributions made to the Plan on behalf of a Participant as specified in Section 5.26.060B.

39. "Tax Deferred Contributions Account" means an account to which the Tax Deferred Contributions and, effective January 1, 2002, Catch-Up Contributions, subject to any action taken by the Administrative Committee under Section 5.26.190 to establish a separate account or subaccount for such Catch-Up Contributions, made for each Participant, and any earnings, investment gains or losses and applicable Plan expenses allocable thereto, are credited.

40. "TPA" means a third-party administrator who has entered into a contract with the County to provide record-keeping or other administrative services for the Plan.

41. "Trial Court Act" means the Trial Court Employment Protection and Governance Act, California Government Code Section 71600 et seq.

42. "Trial Court Employee" means a "trial court employee," as defined under the Trial Court Act, who is an Eligible Employee.

43. "Trial Court Entity" means each Los Angeles County Municipal Court, Los Angeles County Superior Court, and each unified, successor trial court entity (or portion thereof) established in the County of Los Angeles pursuant to California Government Code Section 70200 et seq.

44. "Trust Agreement" means any agreement between the County and a Trustee as in effect from time to time.

45. "Trustee" means any person that is a custodian or trustee and that is appointed by the Board of Supervisors of the County to hold and administer some or all of the assets of the Plan pursuant to Part 7 of this chapter.

46. "Valuation Date" means the date with respect to which the value of the Plan assets or any portion thereof is determined. Unless otherwise determined by the Administrative Committee, a Valuation Date occurs each day.

47. "Year of Service" means an Employee shall be credited with a Year of Service for each Plan Year (including the Plan Year commencing September 1, 1984, and ending December 31, 1984) in which he is employed by the County and is a Participant in the Plan or in the Horizons Plan.

**SECTION 5.** Section 5.26.060 is hereby amended to read as follows:

**5.26.060 Tax Deferred Contributions.**

A. Subject to the limitations contained in Sections 5.26.100A., B. or C., 5.26.160 and 5.26.170, a Participant may, pursuant to a Compensation Deferral Agreement, have the County deduct from his Eligible Earnings and contribute to the Plan a percentage or dollar amount of his Eligible Earnings during any Plan Year; provided, however, that for any period, the Participant may not deduct from and defer any amount that: (i) would not be received as taxable cash but for the Compensation Deferral Election; or (ii) would not constitute Eligible Earnings even if received as taxable cash. Moreover, the Participant's Eligible Earnings for each pay period will be reduced on a pre-tax basis in the following order: (i) first, any pre-tax contributions to the Los Angeles County Employee's Retirement Association; (ii) second, if the Participant participates in one of the flexible benefit plans under Chapters 5.27, 5.28, 5.33 or 5.37 of the County Code, by the amount of any contributions under such plans that otherwise would have constituted Eligible Earnings; (iii) third, if a participant also participates in the Pension Savings Plan, for the amount of any Supplemental Deferred Compensation Contributions that otherwise would have constituted Eligible Earnings; (iv) fourth, Tax Deferred Contributions to this Plan; and (v) fifth, if a Participant also participates in the Horizons Plan, by an amount to satisfy the Participant's Participation Agreement under Horizons Plan.

B. Effective as of January 1, 2002, a Participant who has attained the age of 50 or older before the close of any Plan Year and is eligible to make Tax

Deferred Contributions under the Plan shall be eligible to have the County make Catch-Up Contributions to the Plan from his or her Eligible Earnings during such Plan Year in excess of the Code limitations set forth in Section 5.26.100B., Section 5.26.160 or comparable limitations or restrictions contained in the terms of this Plan, provided, however, that such Catch-Up Contributions may not exceed the limitations contained in Section 5.26.100E. A participant who has elected to be subject to Section 5.26.100C (or is treated as having so elected) shall not be eligible to have the County make a Catch-Up Contribution on his or her behalf.

**SECTION 6.** Section 5.26.260 is hereby amended to read as follows:

**5.26.260 Distributions on retirement or disability.**

A. Notwithstanding the provisions of Section 5.26.250, the entire Account of a Participant whose employment with the county terminates after he is age 70 or qualified for a service retirement benefit under the County Employees Retirement Law of 1937, as amended, if earlier, or whose employment with the county terminates because of Disability, shall be nonforfeitable and fully vested. Such Account shall be paid to the Participant or his Beneficiary, in cash, in accordance with one of the following methods as the Participant determines:

1. A lump-sum payment; or
2. Monthly, quarterly or annual installments not extending for a period that is longer than the life of the Participant or the lives of the Participant and his spouse and the last survivor of them; or

3. Consecutive periodic payments for the life of the Participant or for the lives of the Participant and his spouse and the last survivor of them; or

4. A combination of the methods of payment described in subsections A1, 2 and 3 of this section.

B. All distributions hereunder shall be made on or begun as soon as administratively practicable after the Participant's application is filed pursuant to Section 5.26.240 and approved by the Administrative Committee. A Participant's election to begin distribution and selection of a payment method shall be irrevocable except as provided in subsection C. For purposes of a distribution, the date that such Participant's interest in an Investment Fund is liquidated or redeemed, partially or in full, to satisfy the distribution application shall be the applicable Valuation Date.

C. Participants whose distributions under this Plan have already begun or who submitted an application to begin distributions shall be given a one-time election to change their previously irrevocable payment elections. The election shall be made on a form approved by the Administrative Committee and shall be subject to the approval of the Administrative Committee and the minimum distribution requirements of Code section 401(a)(9) and the regulations thereunder. This subsection C. shall apply to Beneficiaries who are receiving distributions under the Plan pursuant to Section 5.26.270. This subsection C. shall not apply to Participants and Beneficiaries whose benefits under the Plan are provided through an annuity purchased from an insurance carrier.

D. Distributions will begin in accordance with Code section 401(a)(9) and the regulations thereunder and Section 5.26.290 of the Plan. Such provisions shall override any inconsistent distribution option.

**SECTION 7.** Section 5.26.290 is hereby amended to read as follows:

**5.26.290 ~~Time of distribution~~ Code Section 401(a)(9) Minimum Distribution Requirements.**

A. ~~Generally.~~Prior Plan Provision. With respect to distributions under the Plan made for calendar years beginning prior to January 1, 2003, the following provisions will apply. These prior Plan provisions are preserved in accordance with Revenue Procedure 2002-29.

1. Notwithstanding any other provision hereof to the contrary, distributions under the Plan shall be made in accordance with Code Section 401(a)(9) (including Section 401(a)(9)(G)) and the Treasury Regulations promulgated thereunder (including Section 1.401(a)(9)-2); provided, however, that such provisions shall override the other distribution provisions of the Plan only to the extent that such other Plan provisions provide for a distribution that is less rapid or of a lesser amount than required under such provisions of the Code and Regulations. Nothing contained in this Section 2.26.290 shall be construed as providing an optional form of payment that is not available under the other distribution provisions of Sections 5.26.260 -- 280.

B. ~~General Rule.~~2. The entire interest of each Participant under the Plan:

~~4a.~~ Either will be distributed to him not later than his taxable year in which he attains age 70 1/2 or in his taxable year in which he retires from County service, whichever is the later (his "Required Beginning Date"); or

~~2b.~~ Will be distributed, commencing not later than his Required Beginning Date, (a*i*) in accordance with regulations prescribed by the Secretary of the Treasury, over the life of such Participant or over the lives of such Participant and his designated Beneficiary, or (b*ii*) in accordance with such regulations, over a period not extending beyond the life expectancy of such Participant or the life expectancy of such Participant and his designated Beneficiary.

~~C. — Distributions Upon Death of a Participant.~~ 3. Upon the death of a Participant, the following distribution provisions will apply to limit the Beneficiary' s ability to delay distributions.

~~4a.~~ If the Participant dies after distribution of his benefit has begun, the remaining portion of his benefit will continue to be distributed at least as rapidly as under the method of distribution being used prior to the Participant' s death.

~~2b.~~ If the Participant dies before distribution of his benefit has begun, his entire benefit will be distributed no later than five years after his death, unless an individual who is a designated Beneficiary elects to receive distributions in substantially equal installments over the Beneficiary' s life or over a period not extending beyond the life expectancy of the Beneficiary (and, if the Beneficiary is not the Participant' s spouse, not extending beyond 15 years in accordance with the distribution options available under Sections 5.26.260 and 5.26.270) beginning no later

than December 31 of the calendar year following the calendar year in which the Participant died. If the designated Beneficiary is the Participant's surviving spouse, the date distributions are required to begin is the later of December 31 of the calendar year following the calendar year in which the Participant died or December 31 of the calendar year in which such Participant would have attained age 70-1/2. If the spouse dies before such payments begin, subsequent distributions will be made as if the spouse had been the Participant.

3c. Generally, distributions will be treated as having begun to the Participant for the purposes of this Section 5.26.290 on the employee's Required Beginning Date, even though payments may actually have been made before that date; provided, however, that if distributions irrevocably (except for acceleration) commence to an employee under an annuity contract, distributions will be considered to have begun on the actual commencement date.

~~D. — Recalculation of Life Expectancies.~~ 4 The Participant (or the Participant's spouse if the Participant dies before distributions have begun) may elect not to recalculate annually the life expectancy of the Participant and the Participant's spouse (other than in the case of a life annuity) in accordance with Code Section 401(a)(9)(D) and the Regulations thereunder. Such election must be made prior to the time of the first required distribution under Code Section 401(a)(9). If the Participant (or spouse if applicable) fails to make such election, life expectancies will be recalculated annually in accordance with the Regulations.

€5. 2001 Proposed Regulations. With respect to distributions under the Plan made for calendar years beginning on or after January 1, 2001, the Plan will apply the minimum distribution requirements of Section 401(a)(9) of the Internal Revenue Code in accordance with the regulations under Section 401(a)(9) that were proposed on January 17, 2001, notwithstanding any provision of the Plan to the contrary. This amendment shall continue in effect until the end of the last calendar year beginning before the effective date of final regulations under Section 401(a)(9) or such other date as may be specified in guidance published by the Internal Revenue Service.

B. Generally. The provisions of Section 5.26.290B.-G. will apply for the purposes of determining required minimum distributions for Distribution Calendar Years beginning January 1, 2003. The requirements of Section 5.26.290B.-G. will take precedence over any inconsistent provisions of the Plan. Notwithstanding any provision of the Plan to the contrary, all distributions required under Sections 5.26.260 and 5.26.270 of this Plan will be determined and made in accordance with the Treasury Regulations under section 401(a)(9) of the Code. The only permissible distribution options under this Plan are a lump sum distribution, equal monthly, quarterly or annual installments not extending over more than 15 years, consecutive periodic payments for the life of the Participant or for the lives of the Participant and his or her spouse to the extent permitted in Section 5.26.260, or minimum monthly distributions calculated in accordance with the rules provided in Section 5.26.290B.-G.

C. Definitions. For the purposes of Section 5.26.290B.-G, the following terms, when used with initial capital letters, shall have the following respective meanings:

1. "Designated Beneficiary": The person who is designated as the Beneficiary as defined in Section 5.26.020 7 of the Plan and is the designated beneficiary under section 401(a)(9) of the Code and section 1.401(a)(9)-4 of the Treasury Regulations.

2. "Distribution Calendar Year": A calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first Distribution Calendar Year is the calendar year immediately preceding the calendar year which contains the Participant's Required Beginning Date. For distributions beginning after the Participant's death, the first Distribution Calendar Year is the calendar year in which distributions are required to begin under Section 5.26.290D.2. of the Plan. The required minimum distribution for the Participant's first Distribution Calendar Year will be made on or before the Participant's Required Beginning Date. The required minimum distribution for other Distribution Calendar Years, including the required minimum distribution for the Distribution Calendar Year in which the Member's Required Beginning Date occurs, will be made on or before December 31 of that Distribution Calendar Year.

3. "Life Expectancy": Life expectancy as computed by use of the Single Life Table in section 1.401(a)(9)-9 of the Treasury Regulations.

4. "Participant's Account Balance": The Account balance as of the last Valuation Date in the calendar year immediately preceding the Distribution Calendar Year (the "Valuation Calendar Year") increased by the amount of any contributions made and allocated or forfeitures allocated to the Account balance as of dates in the Valuation Calendar Year after the Valuation Date and decreased by distributions made in the Valuation Calendar Year after the Valuation Date. The Accounts balance for the Valuation Calendar Year includes any amounts rolled over or transferred to the Plan either in the Valuation Calendar Year or in the Distribution Calendar Year if distributed or transferred in the Valuation Calendar Year.

5. "Required Beginning Date": The applicable date specified in subsection D. below.

D. Time of Distribution.

1. The Participant's entire interest will be distributed, or begin to be distributed no later than the Participant's Required Beginning Date. Except as described in subsection D.2. below, the Required Beginning Date of any Participant shall be the April 1 of the calendar year following the later of (a) the calendar year he terminates employment or (b) the calendar year he attains age 70 1/2.

2. If the Participant dies before distributions begin, the Participant's entire interest will be distributed, or begin to be distributed, no later than as follows:

(a) If the Participant's surviving spouse is the Participant's sole Designated Beneficiary, then, unless the election described in subsection D.4. below is made, distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 70 1/2, if later.

(b) If the Participant's surviving spouse is not the Participant's sole Designated Beneficiary, then, unless the election described in subsection D.4. below is made, distributions to the Designated Beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.

(c) If there is no Designated Beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(d) If the Participant's surviving spouse is the Participant's sole Designated Beneficiary and the surviving spouse dies after the Participant but before distributions to the surviving spouse begin, this subsection D.2., other than subsection D.2.(a), will apply as if the surviving spouse were the Participant.

3. For purposes of Section 5.26.290B.-G, unless subsection D.2.(d) applies, distributions are considered to begin on the Participant's Required Beginning Date. If subsection D.2.(d) applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under subsection D.2.(a). If distributions under an annuity purchased from an insurance company irrevocably commence to the Participant before the Participant's Required Beginning Date (or to the Participant's surviving spouse before the date distributions are required to begin to the surviving spouse under subsection D.2.(d), the date distributions are considered to begin is the date distributions actually commence.

4. Notwithstanding the foregoing, if a Participant dies before distributions begin and there is a Designated Beneficiary, distribution to the Designated Beneficiary is not required to begin by the Required Beginning Date specified above if the Participant or the Beneficiary elects, on an individual basis, that the Participant's entire interest will be distributed to the Designated Beneficiary by December 31 of the calendar year containing the fifth anniversary of the Participant's death; provided, however, that if the Participant's surviving spouse is the Participant's sole Designated Beneficiary and the surviving spouse dies after the Participant but before distributions to either the Participant or the surviving spouse begin, this election will apply as if the surviving spouse were the Participant. The election provided in this subsection D.4. must be made no later than the earlier of September 30 of the calendar year in which distribution would be required to begin, or by September 30 of the calendar year which

contains the fifth anniversary of the Participant's (or, if applicable, surviving spouse's) death.

E. Required Minimum Distributions During Participant's Lifetime.

1. During the Participant's lifetime, the minimum amount that will be distributed for each Distribution Calendar Year is the lesser of:

(a) the quotient obtained by dividing the Participant's Account Balance by the distribution period in the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury Regulations, using the Participant's age as of the Participant's birthday in the Distribution Calendar Year; or

(b) if the Participant's sole Designated Beneficiary for the Distribution Calendar Year is the Participant's spouse, the quotient obtained by dividing the Participant's Account Balance by the number in the Joint and Last Survivor Table set forth in section 1.401(a)(9)-9 of the Treasury Regulations, using the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the Distribution Calendar Year.

2. Required minimum distributions will be determined under this subsection E. beginning with the first Distribution Calendar Year and up to and including the Distribution Calendar Year that includes the Participant's date of death.

3. If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in

accordance with the requirements of Code section 401(a)(9) and the Treasury Regulations.

F. Required Minimum Distributions if Participant Dies After Distributions Begin.

1. Participant Survived by Designated Beneficiary. If the Participant dies on or after the date distributions begin and there is a Designated Beneficiary, the minimum amount that will be distributed for each Distribution Calendar Year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account Balance by the longer of the remaining Life Expectancy of the Participant or the remaining Life Expectancy of the Participant's Designated Beneficiary, determined as follows:

(a) The Participant's remaining Life Expectancy is calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.

(b) If the Participant's surviving spouse is the Participant's sole Designated Beneficiary, the remaining Life Expectancy of the surviving spouse is calculated for each Distribution Calendar Year after the year of the Participant's death using the surviving spouse's age as of the spouse's birthday in that year. For Distribution Calendar Years after the year of the surviving spouse's death, the remaining Life Expectancy of the surviving spouse is calculated using the age of the surviving

spouse as of the spouse's birthday in the calendar year of the spouse's death, reduced by one for each subsequent calendar year.

(c) If the Participant's surviving spouse is not the Participant's sole Designated Beneficiary, the Designated Beneficiary's remaining Life Expectancy is calculated using the age of the Beneficiary in the year following the year of the Participant's death, reduced by one for each subsequent year.

2. No Designated Beneficiary. If the Participant dies on or after the date distributions begin and there is no Designated Beneficiary (for example, if pursuant to the Plan, the Beneficiary is the Participant's estate) as of September 30 of the year after the year of the Participant's death, the minimum amount that will be distributed for each Distribution Calendar Year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account Balance by the Participant's remaining Life Expectancy calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.

3. If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Code section 401(a)(9) and the Treasury Regulations.

G. Death Before Date Distributions Begin:

1. If the Participant dies before the date distributions begin and there is a Designated Beneficiary, then, unless the election described in subsection D.4. above is made, the minimum amount that will be distributed for each Distribution Calendar Year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account Balance by the remaining Life Expectancy of the Participant's Designated Beneficiary, determined as provided in subsection F.1., above.

2. If the Participant dies before the date distributions begin and there is no Designated Beneficiary as of September 30 of the year following the year of the Participant's death, distribution of the Participant's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

3. If the Participant dies before the date distributions begin, the Participant's surviving spouse is the Participant's sole Designated Beneficiary, and the surviving spouse dies before distributions are required to begin to the surviving spouse under subsection D.2.(a), Section 5.26.290B.-G. will apply as if the surviving spouse were the Participant.

4. If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Code section 401(a)(9) and the Treasury Regulations.

**SECTION 8.** Section 5.26.338 is hereby amended to read as follows:

**5.26.338 Application of forfeitures.**

The amount of Participant' s Accounts which is forfeited for a Plan Year in accordance with Sections 5.26.120, 5.26.280 and 5.26.335 shall be placed in a ~~suspense account~~one or more forfeiture accounts held in the Trust Fund and applied ~~as soon as possible to~~ first, restore the accounts of lost Participants who have filed an application for benefits that has been approved by the Administrative Committee, if any, and second, to offset future Matching Contributions to be made by the County in accordance with Section 5.26.140. Earnings on the forfeiture accounts held in the Trust Fund shall be used to reduce administrative expenses of the Plan in accordance with Section 5.26.420.

**Section 9.** Unless otherwise indicated in the next sentence, pursuant to Government Code Section 25123 (e) and (f) this ordinance shall become operative and effective immediately upon final passage. Sections 1, 2 and 3 shall be operative on January 1, 2002; Sections 4, 5 and 7 shall be operative on January 1, 2003 and Section 8 shall be operative and effective as of the amendment and restatement date of the County of Los Angeles Savings Plan.

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